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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91189736
Party	Defendant Frank M. Baroudi
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Pizzeria Uno Corporation Opposer, v. Frank M. Baroudi d/b/a Puro Uno Applicant	In the matter of Trademark Application Serial No. 77/619941 For the mark: PURO UNO International Class 33 Cancellation No.: 91189736 APPLICANT'S ANSWER TO NOTICE OF OPPOSITION
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June 1, 2009

APPLICANT'S ANSWER TO
NOTICE OF OPPOSITION

Applicant Frank M. Baroudi ("Applicant") hereby answers the allegations set forth in the Notice of Opposition of Application No. 77/619941 ("Notice of Opposition") as follows:

Applicant denies the allegation in the preamble that Opposer will be damaged by registration of the mark PURO UNO. Applicant has insufficient knowledge or information as to Opposer's address and entity information and therefore, denies said allegations. Applicant admits the remaining allegations in the preamble.

1. Applicant admits the allegation as set forth in Paragraph 1 Applicant's basic trademark application information.
2. Applicant admits the allegation as set forth in Paragraph 2 Applicant's basic trademark application information.
3. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 3 of the Notice of Opposition and, therefore, denies said allegations. The Opposer has been in the restaurant and food service business for numerous years and has the mark of PIZZERIA UNO and UNO for a number of classes. These include Class 042 (Restaurant Services); Class 030 (Partially Pre-Cooked Pizza, Calzones, Pasta Salads, Pasta entres); Class 029 (Salad Deressings, Soups, Fruit, Garden and Vegetable Salads); Class 032 (Ale); Class 043 (Restaurant Services); Class 035

(Customer Loyalty Services).

Not a single one of these Classes refer to wine of any sort or form. The classes covered are broken down and described above and in the document filed by the Opposer. There is no mention of any wine product and the key Class; namely Class 33 is not and never has been registered to, Uno or Pizzeria Uno according to USPTO records. In fact, the word UNO translated in Spanish means the number ONE. This is a generic word in the english or spanish dictionary.

4. Applicant denies that any of Opposer's marks are famous. Applicant has insufficient knowledge or information as to the truth of the remaining allegations set forth in Paragraph 4 of the Notice of Opposition and, therefore, denies said allegations. There may well be hundreds of Pizzeria Uno restaurants in the United States. None of them promote a Puro Uno wine, or wine-based product. As far as can be determined, there is no correlation of, or connection to, the universal word Uno to the aforementioned restaurant chain. Uno simply means ONE, no more, no less and it is not protected or trademarked for any wine product or offering in the United States or elsewhere to Applicant's knowledge.

5. Applicant admits that the on-line database of the United States Patent and Trademark Office indicates that Opposer owns registration number 1,089,458 for the mark PIZZERIA UNO in connection with 'restaurant services.' Applicant admits that the on-line database of the United States Patent and Trademark Office indicates that Opposer owns registration number 1,329,014 for the mark UNO in connection with "restaurant services." Applicant admits that the on-line database of the United States Patent and Trademark Office indicates that Opposer owns registration number 1,586,246 for the mark UNO's in connection with "restaurant services." Applicant admits that the on-line database of the United States Patent and Trademark Office indicates that Opposer owns registration number 1,615,917 for the mark UNO in connection with "partially pre-cooked pizza sold in retail stores and in restaurants." Applicant admits that the on-line database of the United States Patent and Trademark Office indicates that Opposer owns registration number 1,757,093 for the mark UNO in connection with "calzones." Applicant admits that the on-line database of the United States Patent and Trademark Office indicates that Opposer owns registration number 1,814,299 for the mark UNO in connection with "salad dressings, soups, and fruit garden and vegetable salads; pasta salads, and entrees composed primarily of pasta." Applicant admits that the on-line database of the United States Patent and Trademark Office indicates that Opposer owns registration number 2,561,335 for the mark UNO AMBER ALE in connection with "ale." Applicant admits that the on-line database of the United States Patent and Trademark Office indicates that Opposer owns registration number 2,900,824 for the mark UNO CHICAGO GRILL in connection with "restaurant services." Applicant admits that the on-line database of the United States Patent and Trademark Office indicates that Opposer owns registration number 2,946,476 for the mark PIZZERIA UNO CHICAGO GRILL & Design in connection with "restaurant services."

Applicant admits that the on-line database of the United States Patent and Trademark Office indicates that Opposer owns registration number 2,953,679 for the mark UNO CHICAGO GRILL & Design in connection with "restaurant services." Applicant admits that the on-line database of the United States Patent and Trademark Office indicates that Opposer owns registration number 2,958,581 for the mark PIZZERIA UNO GRILL & Design in connection with "restaurant services." Applicant admits that the on-line database of the United States Patent and Trademark Office indicates that Opposer owns registration number 3,102,324 for the mark UNO INSIDER'S CLUB & Design in connection with "customer loyalty services for restaurant customers for commercial, promotional and advertising purposes provided via e-mail, the internet and other means of communications." As delineated in Opposers paragraph 5) there are indeed Marks registered for Pizzeria Uno, Uno and Uno's, but NONE of them refer to Wine or Wine Products in the Goods and Services Description or for Class 33. Puro Uno is not in the restaurant business and has no intention of being involved in this market segment.

6. Applicant denies the allegations set forth in Paragraph 6 of the Notice of Opposition. Puro Uno is an importer, distributor, marketing and sales operation specializing in wines. No more, no less. Applicant is an upmarket wine vendor that has nothing in common with restaurant sales or marketing. Applicant has no intention of selling our upscale wines in Pizza establishments since the cost would be prohibitive and thus do not offer our product to the same general class of customers who purchase the goods and services in connection with what Opposer represents in the pizzeria.

7. Applicant admits its mark includes the term UNO. Applicant denies the remaining allegations set forth in Paragraph 7 of the Notice of Opposition. There is absolutely no similarity in the marks PURO UNO for Class 33 and the Opposers mark UNO. UNO simply means the number ONE and Applicant's mark is for PURO UNO for a class that is not represented in the Opposers mark/s.

8. Applicant denies the allegations set forth in Paragraph 8 of the Notice of Opposition. Since the Opposer has been in business since 1943 and has not found the need to register Class 33 in over 66 years, it would seem that the company is indeed not in the wine sales, marketing, distributing or importing business. If they were, then indeed the mark would have been protected by now since a total of at least 12 other marks relating to the Opposers actual business are indeed trademarked. Furthermore, there is no likelihood that PURO UNO would cause confusion, mistake, or deception of the relevant trade or public since the two companies are not in the same business. Most everyone in the United States knows that the word UNO means ONE. Nothing more. Applicant is only requesting to register the mark PURO UNO for its wine business in Class 33.

9. Applicant denies the allegation set forth in Paragraph 9 of the Notice of Opposition. If Applicant is granted the registration, it would indeed obtain a *prima facie* exclusive right to use the PURO UNO mark which is the intention in order to protect its

wine importation, distribution, marketing and sales business. There would no source of damage or confusion to the Opposer whatsoever.

Applicant expressly denies any and all allegations in the Notice of Opposition not expressly admitted above. WHEREFORE, Applicant honestly believes that there is absolutely no chance that damage could be done by granting the PURO UNO mark for Class 33 for many reasons, not the least of which is that the two respective companies are not even nearly in the same business. Furthermore, the Opposer has not, in the past or presently, held a registered mark for goods or services in Class 33. Applicant is hopeful that the foregoing explanations will be sufficient to be granted the right to use PURO UNO as a registered mark in the future.

Ad Damnum Clause

Applicant denies that Opposer is entitled to the relief it seeks.

AFFIRMATIVE DEFENSES

The relevant customers are sophisticated and not likely to be confused.

The channels of trade are sufficiently different so as to preclude a likelihood of confusion.

The goods are sufficiently different from Applicant's goods so as to preclude a likelihood of confusion.

The marks are sufficiently dissimilar so as to preclude a likelihood of confusion.

The relevant advertising media are sufficiently different so as to preclude a likelihood of confusion.

Respectfully submitted,



6/1/09

Frank M. Baroudi
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June 1, 2009

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Applicant's Answer to Notice of Opposition was deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to:

John L. Welch, Esq.
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On June 1, 2009.

Frank M. Baroudi Date: June 1, 2009

F M Baroudi - 6/1/09

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CERTIFICATE OF ESTTA MAILING

Date of Deposit: June 1, 2009

Signature Frank M. Baroudi

F M Baroudi 6/1/09
Name: Frank M. Baroudi

I hereby certify that this document to the Trademark Trial and Appeal board is being submitted via the Electronic System for Trademark Trials and Appeals ("ESTTA") on the date noted above.